

Ladies and Gentlemen,

It's my pleasure to represent High School of Justice of Georgia today. First of all, I'd like to express my sincere appreciation to the whole group of Council of Europe, experts from different countries working on the manual as well as to our hosts giving us the opportunity of being here, in this beautiful city.

As you already know, the manual is targeted to Georgian judges and prosecutors, so there have been three experts of us, working on the manual.

We decided to divide our work in three parts. In these minutes, I will gladly introduce you to the integrated version of Georgian part of the manual. I'd like use this opportunity and express my gratitude towards my colleagues, MRS Kvirikashvili and MRS Merebashvili for their hard work and constructive cooperation that resulted in the quality of the manual.

We decided to begin the chapter with a brief historical review, to remind the target audience of the condition of Georgian women and their role in our society, as well as the historical social, cultural, religious barriers that stand against the aspiration of women to their rights. We can state that in the beginning of the last century, even before Georgia had signed international agreements regarding the protection of human rights, we had active women and they were fighting for their right on social, political, economical life. We do believe that it is relevant to describe and underline the obstacles that exist in Georgia preventing women to access justice (stereotypes in the societies, lack of awareness in women regarding their rights especially in rural areas of the country, syndrome of victim, lack of economical basics, low level of representation of women on the decision-making positions caused by lack of their ambition). This part includes some data: Information from National Statistics Office of Georgia, for example, difference between incomes of men and women, as well as research report (UNDP) by which it's obvious that according to the major part of the society, the main role of a woman is being a good mother and a housewife, meanwhile, the role of men is seen as a careerist as well as the economical source of the family. According to analyzed outcome of the same research, most of the Georgian women have special heartfelt attitudes towards their male relatives and employers, thus they refrain from appealing against them.

The next topic is dedicated to the general legal principles of equality, mostly to prohibition of discrimination based on any grounds. The topic will also review the precedential decision of Georgian Constitutional Court, concerning the matters of discrimination. The decision is important because it legally clarifies, that the different grounds of discrimination aren't comprehensive. This topic will include the anti-discrimination law and the one on gender

equality according to Georgian Legislation, the difficulties and gaps in the law, the role of authorities, the importance of Public Defender to keep an eye on the protection of equality of people, as well as the role of judges and prosecutors in establishing and providing non-discriminative attitudes. The chapter includes the best practice of Public Defender's Office of Georgia as well as gaps in legislation decreasing the effectiveness of the way of protection of one's rights.

In the next chapter, we discuss and introduce the regulations of labor rights of women during pregnancy, maternity leave, child custody period. This chapter reviews the decision of the courts that protected the rights of women employed in private or public entities.

The chapter also shows current situation concerning gender balance in court system itself. The listeners should draw serious attention to the fact, that in Georgia, 52 % of sitting judges are women, however, out of them only 6 judges take the decision-making positions such as: Chief Justice, Chiefs of Chambers, the Members of HCoJ and the President of the Court. It's important to analyze, that in spite of the majority of judges being women in the court system, in the elections only 2 women were elected as members of HCoJ, among 8 candidates.

The next topic is the one that I have been working on. It mostly concerns families and equality of spouses in decision-making processes while family planning. In this chapter, I address the following: equal estate and non-estate rights of the spouses as well as their individual right on separate property, parents' rights on child custody as well as taking a child in the residence. In this topic, you can also read about the rights of single women. In the end of the chapter, you can see the overview of the practice of domestic court these issues and as well as the faults in legislation and in the court practice.

Another one includes the general review of forms of violation, where serious attention is paid to the DV cases. Criminological overview of domestic violence – annual statistics and comparative analyses (its level and dynamics, the main forms and reasons, the main characteristics of the victims and the offenders, sanctions, identification of risk-groups, etc.);

In this topic we discuss two special articles (11¹ and 126¹ Cr.C) in details, Criminal Code of Georgia; Review of Georgian law of Domestic Violence, Protection and Assistance of Victims of Domestic Violence; Administrative mechanisms for elimination and prevention of domestic violence and victim protection, such as protective and restrictive orders, referral

procedures; Obstacles and barriers of in the criminal cases such as victims' unwillingness to cooperate with the investigation.

You can also find the important challenge - gaps of identification and prosecution of psychological and systematic violence; methodology of obtaining evidence in such cases; improving DV victims' access to justice; ways of encouraging victims to collaborate with the investigative bodies; Domestic courts practice of preventive measures and sanctions; best and worst practices.

Murder against women

This topic includes presentation and discussion of the annual statistics and comparative analyses - violence level and dynamics in Georgia as well as the main forms and reasons, problematic issues of investigation levels, especially according to crime motive identification¹;

It is also discussed the necessity of criminalization of femicide in Georgia; Several cases ruled by national courts and material and procedural issues raised by the prosecutors and the lawyers as well as NGOs regarding those cases.

Crimes against sexual freedom and sexual inviolability (articles 137-141 Cr.C), including Rape and Sexual intercourse or any other act of sexual nature with a person who has not attained the age of 16 years; gaps in law and necessity of amendments. The amendments on Criminal Code are already drafted; they radically change the content of articles together with the terminology, concerning these issues. We believe that it will be adopted as soon as The Istanbul Convention is ratified by our state.

The issues of early and force marriages are also highly emphasized in the chapter. Georgian Criminal code doesn't consider early marriages as a crime; however, this action is qualified as a sexual intercourse or any other act of sexual nature with a person who has not attained the age of 16. This fact is also really hard to examine because of victims' unwillingness to cooperate with investigation. The manual will include some pieces of advices and recommendations for prosecutors, especially regarding the usage of suppressive measures.

Domestic legislation - Law of Georgia on the elimination of all forms of discrimination; article 531 (Criminal code of Georgia) considers crime on discriminatory motives as an aggravating circumstance. We have a lack of practice in this field, thus, it is hard to identify and establish gender as motive in certain cases. In this regard, the attention of the

¹ See below, analyses of the murder of women, 2015 year.

investigators should be paid on such wording of the possible offender as: negative reference towards the victim, emphasize of her social role, direct or indirect specification of her gender and non-traditional behavior.

The role of prosecutors in improving women's access to Justice in criminal law cases of gender-based crimes is significant. The main tools for achieving this goal are: Effective prosecution and adequate criminal policy; Victims' protection measures (where it is necessary); Encouragement towards the victims to cooperate with the investigative bodies; Participation in interrogating process in order to secondary victimization and minimize re-interrogating process; Prevention of discriminatory and stereotypical attitudes in criminal case investigation and prosecution; Projects aimed at crime prevention and raise of awareness in the society; Improvement of the access to justice for the most vulnerable categories of women (including women with disabilities, national, sexual, religious, age differences)

Specific methods of treatment should be adopted towards the vulnerable groups.

The following chapter concerns Human Trafficking as one of the issues. The mentioned problem is discussed within the spectrums of: Criminological Aspects of Trafficking in Georgia, Legal Aspects of Human Trafficking, Specificities and challenges of Trafficking identification, investigation, prosecution and conviction, Victim's right to the effective criminal justice.

1. **Criminological Aspects of Trafficking in Georgia** include existing situation and crime dynamics in Georgia: Criminological overview of trafficking facts committed on the territory of Georgia; as well as statistical data of investigations, prosecutions, convictions and sanctions used, comparative analysis of statistical data;
2. **Legal Aspects of Human Trafficking** are, firstly, trafficking as a crime according to the national legislation: Overview of relevant provisions of Criminal Code of Georgia and Law on Combating Human Trafficking; Secondly, an overview of national judicial practice on legal issues (case study will be included after covering topic)
3. **Specificities and challenges of Trafficking identification, investigation, prosecution and conviction** covers operative methods of trafficking identification; Prosecution and following measures, practice of the use of preventive measures; (under this topic will be discussed prosecutor's role to ensure effective investigation and prosecution); As

well as specificities of court hearings on Trafficking cases (Possibility of closing the court hearing, complete proceedings, practice of the use of plea bargaining).

4. **Victim's right to the effective criminal justice** - meaning Identification of victim/granting the status of statutory victim – victim categories, female victims, General overview of victim's rights according to domestic legislation. Specific rights: Victim's support and assistance; Time for reflection; Cooperation with law enforcement and judiciary; Prosecutor's role in the communication with victims; Role of Prosecutor in encouraging the victim on cooperation.

Topic:

Self-defense in GBV cases covers self-defense of female victims of violence, legal framework (Overview of Article 28 of Criminal Code of Georgia), good practice will be included; Protection from self-incrimination according to the national legislation (overview of national criminal procedure legislation) and Legal mechanisms on refusal of cooperation with law enforcement (overview of national criminal procedure legislation) and best practice how to encourage GBV victims to cooperate with law enforcement.

Topic: Rights of women in custody/women as offenders

include such statements as: Implementation of police control and other measures with regard the female citizens (taking into consideration the sex of citizen, exceptional rules with regard the female citizens according to the Police Law of Georgia); Also, the administrative detention and imposing sanctions on female offenders according to the Administrative legislation of Georgia; Specificities of female defendants and investigative actions with their participation according to the national legislation (Participation of the same-sex police officers in certain investigative actions (e.g. search), conduction of medical check/examination by the same-sex personnel); Specificity of imposing the punishment on female convicts, delay of execution the sentence due to the pregnancy, childbirth or having an infant (overview of national legislation and practice);

Specificities of serving a prison sentence according to national legislation (providing with special means of hygiene, right to maternity and having a child, needs of pregnant inmate, imprisonment and right to private life, duration of visits in penitentiary establishment,

encouragement and disciplinary punishment of female inmates); As well as the rules of execution, the non-custodial sentence of female convicts and probation issues;

Topic: Access to reproductive health services, family planning and contraception, medical confidentiality in relation to abortion, paternity in assisted reproduction cases.

This topic is covering such fields as women's reproductive rights in Georgia, public regulations of contraception and access to contraception, national policy regarding family planning. Case law of the domestic court related use of genetic materials of ex-spouse without his/her consent; additionally it is about medical confidentiality – overview of general rules; specific rules related to abortion, especially in GBV cases.

These are the main topics discussed in the national part of Georgia.

Thank you for your attention.